



13/09/08
Mailed 04/30/08

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

08/809,620

Examiner

Thong Nguyen

Applicant(s)

GOULVEN, VERNONIS

Art Unit

2872

RECEIVED

JUN 04 2009

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

OFFICE OF PETITIONS

The amendment document filed on 14 May 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☒ 3. Amendments to the drawings:
 - ☒ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☒ C. Other See attached sheets.
- ☐ 4. Amendments to the claims:
 - ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Thong Nguyen for

Legal Instruments Examiner (LIE), if applicable

Telephone No.

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed by applicant on 5/14/07.
2. It is noted that the office has received two sets of papers faxed to the Office on 5/14/07.

The first set of papers contains a marked-up version of the specification in which applicant has shown the changes to the specification, and a clean copy of the specification. It is noted that there is not any change to the claim(s) and the drawings as provided in this first set.

The second set of papers contains the following items.

First, applicant's remarks related to the notice of non-compliant amendment, see pages 1-3 of the second set of papers;

Second, a list of claims contained the changes made by applicant on the amendment of 6/29/01, see pages 4-6, and a list contains claims without any mark-up changes, see page 7. It is noted that the list of claims as provided in page 7 contains claims 1, 14-15, 18-19 and 44 in which each of claims 1, 14-15 and 18-19 are labeled as "(amended)" claim, and claim 44 is labeled as a (new)" claim.

Third, a list of claims contained the changes made by applicant on the amendment filed on 7/12/06 (see Note below), see pages 89, and a list contains claims without any mark-up changes, see page 10. It is noted that the list of claims as provided in page 10 contains claims 1, and 44-48 in which claim 1 is labeled as an "(twice

Second, regarding to the claims, applicant has not used the proper status indicator for the claims provided in the list of claims.

amended)" claim, each of claims 45-46 are labeled as a (new)" claim, claim 47 is labeled as "(new – 15 third amended)" claim, claim 48 is labeled as "(new – 15 third amended)" claim and there is not any status indicator for claim 44.

Note: applicant should note that the amendment filed on 7/12/06 does not comply with the rule, see the Notice of non-compliant mailed to applicant on 10/24/06 and remailed on 4/20/07, and thus has not been entered into the application yet. Since the amendment filed by applicant on 7/12/06 has not been entered thus any changes to the claims are not been entered and considered.

Fourth, a sheet of paper in which applicant has provided his remarks related to the substitute specification, see page 11.

Fifth, a set of five sheets of drawings which each sheet is labeled as "(Replacement sheet)", and applicant's remarks related to the replacement sheets, see pages 12-13.

3. The amendments as filed by applicant on 5/14/07 does not comply with the requirements of 37 CFR 1.121(c) because of the following reasons.

First, regarding to the substitute specification, it is noted that applicant has not submitted a statement that the substitute specification does not include nay new matter as required by 37 CFR 1.125(b).

Second, regarding to the claims, applicant has not used the proper status indicator for the claims provided in the list of claims.

Applicant should further note that since the amendment filed by applicant on 7/12/06 has not been entered thus any changes to the claims are not been

entered and considered. Applicant should amend the claims by making any changes to the claims as filed on 6/28/01. See the office action mailed to applicant on 2/16/06, page 4, lines 3-9.

Third, the amendments to the drawings are confusing.

It is unclear if the application still contains figures 18-20, figures 35 and 43 and a new figure labeled as "Fig, 57" showing in the replacement sheets 6/15, 9/15 and 10/15?

It is also unclear the numbers of figures in the application based on the substitute specification and the sheets of replacements. As stated in the specification, there is ten figures labeled as figures 1-10; however, in all replacement sheets filed on 5/14/07, there is not any figures labeled as figures 8-10.

It is also suggested that a new figure which is newly-added to the application must be provided in a separate sheet and labeled as a "New sheet", not a replacement sheet.

4. Applicant is respectfully invited to review the rules which a copy was provided to applicant on the office action of 2/16/06 and as follow below.

Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending

and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Since the reply filed on 5/14/07 appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong Nguyen/
Primary Examiner, Art Unit 2872